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10/737,042

12/15/2003

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2152-3033

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35884 7590 06/14/2007
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EXAMINER

WARREN, DAVID S

ART UNIT

PAPER NUMBER

2837

MAIL DATE

DELIVERY MODE

06/14/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/737,042

Applicant(s)

LUDWIG, LESTER F.

Examiner

David S. Warren

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/13/03 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

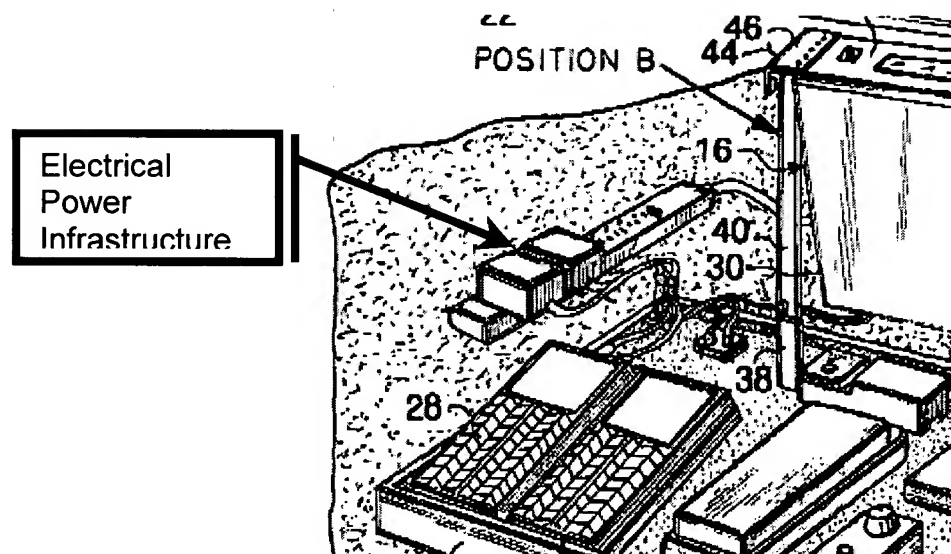
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 – 10 and 12 – 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pecoraro (5,866,829) in view of Furman Sound, Inc. (Stereo Pedal Board Model SPB-8 Instruction Sheet, Furman Sound, Inc., see press release to establish prior art date of December 14, 2002; hereinafter “Furman”) and Stratton (6,538,185). Regarding independent claims 1 and 15, Pecoraro discloses the use of plural foot controllers (14, 26; figs. 3 and 7), mounting frame and means for securing modules, i.e., foot controllers are retained within the frame (12, 20, 22), and a signal interface (16) for transmitting interface signals to an external device (e.g., an amplifier). Pecoraro does not disclose the use of individual foot controllers which are readily positionable (i.e., adjustable position) within any of a plurality of predetermined mounting locations of the mounting frame. Furman discloses a pedal board (i.e., foot controller, it is noted that Furman discloses that the effects can be located on the pedal board or in a rack, if the modules are located in a rack, then “control” signals must be sent from the pedal board to the rack to activate the audio effect) wherein the foot

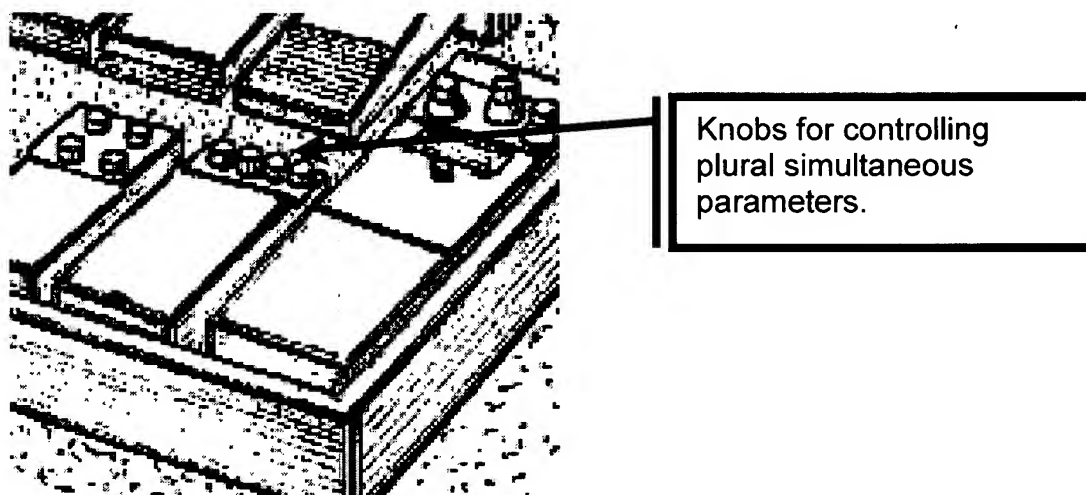
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controller modules are readily positionable within any of a plurality of mounting locations (see page 1, col. 2, see paragraphs titled Prepare Pedals and Create a layout). Neither Pecoraro nor Furman disclose the use of "predetermined mounting locations." Stratton discloses the use of a pedal board having predetermined locations (col. 3, lines 1 – 4; the "top right corner" and "top left corner" are predetermined locations). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the modules of Pecoraro readily positionable within predetermined locations as taught by either Furman or Stratton. The motivation for making the Pecoraro modules position-adjustable would be to allow, say, someone not comfortable balancing on his or her right foot to control a module so that balancing could be accomplished on the musicians left foot. Predetermined locations allow a multi-tiered board to provide rugged support and mounting. Another motivation would be to allow a musician to quickly control two or more modules by placing them next to each other – for example to increase the distortion and compression for a guitar solo after playing a clean rhythm. Yet another motivation would be place modules to lessen the noise and hum and to increase signal strength (this is suggested by Furman). Regarding claims 2 and 16, Pecoraro shows an electrical power infrastructure (unnumbered, see excerpt from fig. 3):

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Regarding claim 3, pedals (26, fig. 3) disclose the use of switches. Regarding claim 4, Pecoraro discloses the use of foot pedals (28, fig. 3). Regarding claim 5, while Pecoraro is silent as to foot pedals that provide a simultaneous "plurality of adjustable parameters," Official Notice is taken that the foot pedals shown in Pecoraro's figure 3 possess control knobs for adjusting parameters that are simultaneously provided to an external device;



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Regarding claims 6 – 10, 12, 17 and 18, the Examiner maintains that any pedal (especially the rocker-type) will provide tactile control (i.e., the user can physically feel the degree to which a pedal is activated), all pedals shown by Pecoraro will be activated in accordance with pressure and/or impact. Regarding claim 14, Pecoraro shows in fig. 3, that interface (16) is mounted to frame (20) via elements (38). Regarding claim 13, the use of “organ-style bass pedals” is deemed to be functionally equivalent to any (especially the rocker-type) pedals shown in fig. 3 – organ-style pedals are essentially pivotal lever activated switches. Regarding new claims 19 and 20, Stratton discloses the use of an aperture in for a predetermined mounting location (into which element 27 is inserted, see fig. 5). All cited references show a mounting frame having a first side positioned a distance from a second side.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pecoraro, “Furman” and Stratton (discussed supra) and in further view of Gillaspy (5,506,371). Regarding independent claim 1, the teachings of Pecoraro, Furman and Stratton have been discussed supra. Pecoraro (nor Furman, nor Stratton) does not

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teach the use of a strum pad operating as a foot pedal. Gillaspy discloses that strum pads may be substituted for foot pedals (col. 4, lines 3 – 5). It would be obvious to one of ordinary skill in the art to combine the teachings of Pecoraro, Furman, Stratton, and Gillaspy to obtain a floor controller having a strum pad control unit. The motivation for making this combination is to complement the degree to which control can be made from the feet, thus freeing the hands.

Response to Arguments

The Applicant argues that Pecoraro does not teach the use of “control signals.” The Examiner concurs. However, Furman states that the effects may be located either on the pedal board or in an effects rack. The Examiner maintains that if the effects are located in a rack (which is extremely common), then the signal sent from the pedal board to the effect (in the rack) is deemed a “control signal” since it, essentially, controls the effect.

The Applicant argues that the prior art does not disclose any “external system.” As stated supra, if the effects of Furman are located in a rack, then the rack is deemed to be an “external system.”

Finally, the Applicant argues that neither reference shows the newly added feature of locating modules on a pedal board in “predetermined locations.” The Examiner concurs and has supplied a new reference (Stratton) which shows that this feature is old and well-known within the art.

Conclusion

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David S. Warren whose telephone number is 571-272-2076. The examiner can normally be reached on M-F, 9:30 A.M. to 6:30 P.M..

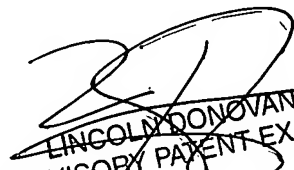
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on 571-272-2837. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

dsw


LINCOLN DONOVAN
SUPERVISORY PATENT EXAMINER